

HON. SYLVIA O. HINDS-RADIX  
Corporation Counsel

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

THOMAS LINDEMAN  
Tel.: (212) 356-0418  
tlindema@law.nyc.gov

March 30, 2023

**VIA ECF**

Hon. Paul. A. Engelmayer  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *T.P. v. N.Y.C. Dep't of Education*, 22-cv-9413(PAE)(RWL)

Dear Judge Engelmayer:

I am a Special Assistant Corporation Counsel in the office of Corporation Counsel, the Honorable Sylvia O. Hinds-Radix, attorney for Defendant in the above-referenced action, wherein Plaintiff seeks solely attorneys' fees, costs and expenses for legal work on an administrative hearing under the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq.*, as well as for this action.

Defendant submits this letter to provide the Court with a recent decision in support of Defendant's motion to stay the instant matter, filed March, 24, 2023 (ECF No. 13). Defendant made a similar stay motion in *S.M. v. N.Y.C Dep't of Educ.*, 22-cv-7052(VEC)(BCM) (ECF No. 17). On March 28, 2023, Magistrate Judge Moses granted Defendant's request, stating:

While the timing of the Court of Appeals decision in H.C. and tandem cases cannot be predicted with any certainty, this Court can predict, with a high degree of confidence, that in the absence of a stay, the parties will once again heatedly brief issues that they have briefed countless times already (including twice to the undersigned Magistrate Judge). Thereafter, when this Court issues its Report and Recommendation, one or both parties will object, requiring both parties to rebrief the same issues to the District Judge. Consequently, in this Court's view, denying DOE's stay motion would burden both parties (and the Court) without solving the Cuddy Law Firm's "cashflow problems." Additionally, the Court notes that plaintiff's letter-brief opposing the stay application (Dkt. 18) is addressed to the wrong judge, under the caption of the wrong case. This suggests that the Cuddy Law Firm is already overburdened with similar cases, and would benefit from having one fewer case to brief in the near term. This action is hereby STAYED pending the Second Circuit's decision in H.C., No. 21-cv-1582. The parties shall

file a joint status letter within two weeks of the Second Circuit's decision in that case. SO ORDERED.

*Id.* ECF No. 19.

Magistrate Judge Moses' Order speaks eloquently to the value that a stay in this matter would afford the parties. As to Plaintiff's concern that a pre-motion conference would waste time and resources (ECF No. 15), Defendant respectfully notes that its initial request included an alternative proposition that this matter be stayed without the need for a conference. Defendant reiterates that proposal here.

Thank you for considering this submission.

Respectfully submitted,

/s/

---

Thomas Lindeman, Esq.  
Special Assistant Corporation Counsel

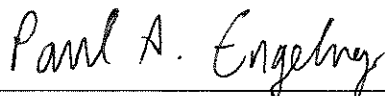
cc: Kevin Mendillo, Esq. (via ECF)

The Court has reviewed the respective letters and arguments regarding a stay in this matter. Dkts. 13, 15, 16. The Court has also reviewed the orders of other Courts in this District, confronting the same question, including those of Judge Moses (excerpted above) and Judge Cronan, who have stayed IDEA fees cases involving the Cuddy Law Firm, in light of the pending Second Circuit appeal.

The Court, with Judges Moses and Cronan, finds a stay appropriate here. The appeal implicates numerous issues in this case are on review by the Second Circuit. These include the appropriate hourly rates for the attorneys, as well as the reasonableness of their asserted hours. And with briefing not yet commenced in this matter, it would be imprudent to ask the parties to expend time and resources with the appeal looming.

Accordingly, this matter is stayed. The parties are ordered to file a joint status letter within two weeks of the Second Circuit's decision in *H.C.*, No. 21 Civ. 1582.

SO ORDERED.



---

PAUL A. ENGELMAYER  
United States District Judge  
March 30, 2023